

RD AN No. 3766 (4287-B)
June 5, 2002

SUBJECT: Business and Industry Guaranteed Loan Program
Termination of Interest Accrual
Form RD 449-30, Guaranteed Loan Report of Loss

TO: State Directors, Rural Development

ATTN: Business Programs Directors

PURPOSE/INTENDED OUTCOME:

This notice is provided to clarify when an estimated report of loss should be filed and the purpose of such a filing.

COMPARISON WITH PREVIOUS AN:

This is a reissue of RD AN No. 3658 (4287-B), which expires June 30, 2002.

IMPLEMENTATION RESPONSIBILITIES:

Form RD 449-30, "Guaranteed Loan Report of Loss," will be used for calculations of all estimated loss determinations. Estimated loss payments may be approved by the Agency after the lender has submitted and the Agency *has approved* a liquidation plan.

The Lender's Agreement, Section VI., Item E. (Determination of Loss and Payment), 2., second paragraph, states: "When the Lender is conducting the liquidation, and owns any of the guaranteed portion of the loan, it may request a tentative loss estimate by submitting to USDA an estimate of loss that will occur in connection with liquidation of the loan. USDA will agree to pay an estimated loss settlement to the Lender provided the Lender applies such amount due to the outstanding principal balance owed on the guaranteed debt. Such estimate will be prepared and submitted by the Lender on Form RD [FmHA] 449-30, using the basic formula as provided on the report except that the appraisal value will be used in lieu of the amount received from the sale of collateral. The Lender will discontinue interest accrual on the defaulted loan and the loss claim will be promptly processed in accordance with the applicable USDA regulations."

EXPIRATION DATE:
June 30, 2003

FILING INSTRUCTIONS:
RD Instruction 4287-B

The above paragraph has been interpreted differently by State Offices. Payment of the estimated loss *terminates interest accrual on the **entire** loan*. After the report of loss estimate has been approved by the Agency and within 30 days thereafter, the Agency will institute procedures for payment of the estimated amount due the lender. The lender shall file an estimated report of loss, once a decision has been made to liquidate, if the liquidation is expected to exceed 90 days.

If liquidation is expected to not exceed 90 days, no estimated report of loss should be filed, and, *within 30 days* after liquidation of the collateral is completed, a final report of loss on Form RD 449-30 must be prepared and submitted by the lender to the Agency. The Agency *will not* guarantee interest beyond this 30-day period other than for the period of time it takes the Agency to process the loss claim.

If the final loss is greater than the estimated loss payment, the Agency will issue a check in payment of the additional amount owed to the lender. If the final loss is less than the estimated loss, the lender will reimburse the Agency for the overpayment plus interest at the note rate from date of payment.

In some cases, recovering an overpayment to the lender could result in litigation if the lender refuses to reimburse the Agency for the overpayment. We encourage you to carefully review the appraisal report (including the credentials of the appraiser) before payment of an estimated report of loss and keep the lender fully informed of its responsibility to expeditiously process to final closure, as outlined in the Lender's Agreement.

In cases where a liquidation is imminent, you are encouraged to meet with the lender to discuss the minimum requirements of a liquidation plan and the time frame involved and remind the lender, in writing, that, prior to incurring any expenses, *the maximum loss to be paid by the Agency will never exceed the original principal plus accrued interest, regardless of any protective advances made*.

Please refer to RD Instruction 4287-B, sections 4287.157(g) and 4287.158(b), for additional guidance.

Any questions or comments should be directed to the Business and Industry Division Servicing Branch, (202) 690-4103.

(Signed by John Rosso)

JOHN ROSSO
Administrator